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UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTSUNITED STATES OF AMERICA,)
Plaintiff,)
vs.) No. 13-10048-FDS
KING BELIN,)
Defendant.)

BEFORE: THE HONORABLE F. DENNIS SAYLOR, IV

STATUS CONFERENCEJohn Joseph Moakley United States Courthouse
Courtroom No. 2
One Courthouse Way
Boston, MA 02210September 18, 2014
9:47 a.m.Valerie A. O'Hara
Official Court Reporter
John Joseph Moakley United States Courthouse
One Courthouse Way, Room 3204
Boston, MA 02210
E-mail: vaohara@gmail.com

1 APPEARANCES:

2 For The United States:

3 United States Attorney's Office, by JOHN A. WORTMANN, JR.,
4 ESQ., 1 Courthouse Way, Suite 9200, Boston, Massachusetts
5 02110;

6 VIA TELEPHONE:

7 For the Defendant:

8 PAUL J. GARRITY, ESQ., 14 Londonderry Road,
9 Londonderry, New Hampshire 03053.

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PROCEEDINGS

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THE CLERK: The case before the Court is 13-cr-10048,
United States of America vs. King Belin.

4

THE COURT: Would counsel please identify themselves
for the record.

6

MR. WORTMANN: John Wortmann for the government, your
Honor, good morning.

8

THE COURT: Good morning.

9

10:06AM 10

MR. GARRITY: Good morning, your Honor, Paul Garrity
for Mr. Belin.

11

THE COURT: Mr. Garrity, your sound isn't quite as
clear as it could be. Are you on a speaker phone?

13

MR. GARRITY: I'm on a cell phone. I just left the
courtroom.

15

THE COURT: Okay. Just take care to speak clearly and
carefully. All right. I called this conference on short
notice. At the end of last week, I received the evaluation
report for the defendant.

19

10:07AM 20

The cover e-mail from the people at FMC Devens
indicated that the report contained material from sealed
testimony that the AUSA was not permitted to hear, and so it
was distributed to me, not counsel. I read the report, I
circulated it to Mr. Garrity on behalf of the defendant and
asked him to weigh in as to how I should proceed, whether we
should produce a redacted report or produce the full report

1 under seal to the government.

2 I think Mr. Garrity reported back that he wanted to
3 confer with his client, and I'm looking for an update and some
4 guidance as to how at least the defense counsel thinks I ought
5 to proceed. Mr. Garrity.

6 MR. GARRITY: Judge, I have not yet had a chance to
7 meet with Mr. Belin, but I guess I'd like to meet with him
8 before I disclose anything to the government.

9 THE COURT: All right.

10:08AM 10 MR. GARRITY: And I say that just based on the history
11 of the case, as I understand it, before I got involved.

12 THE COURT: All right. The conclusion, I think,
13 obviously does not need to be kept from the government, which
14 is that --

15 MR. GARRITY: Oh, right, exactly.

16 THE COURT: And I'm quoting now, "In conclusion,
17 Mr. Belin does not exhibit substantial deficits due to a
18 substantial mental illness or defect that would significantly
19 compromise his understanding and appreciation of the trial
20 process. Similarly, Mr. Belin did not exhibit substantial
21 impairment in his ability to participate meaningfully in our
22 discussion of his legal proceedings, which suggest that he has
23 the capacity to participate rationally with his attorney in the
24 preparation and implementation of his defense." That's the
25 last sentence of the report on page 26 signed by

1 Chad Tillbrook, forensic psychologist, FMC Devens.

2 Obviously, if he had found a mental impairment, the
3 urgency of getting it to the government would be greater
4 because the government might want to either dispute or to take
5 some other action, but since he's concluded that he's capable
6 of participating in his defense and standing trial, I would
7 like -- we need an answer whether the government can see this
8 report and what to do with it, but it seems to me that what I
9 ought to do, unless someone has a different idea, is get this
10:09AM 10 case back on a trial track.

11 MR. GARRITY: Your Honor, I think most of it could be
12 disclosed to the government. I just want to be on the safe
13 side and confer with Mr. Belin.

14 THE COURT: I understand. Mr. Wortmann.

15 MR. WORTMANN: And, your Honor, I didn't know how to
16 prepare for coming down today, but I would simply point out
17 that at least from one of my DOJ secondary requirements, it
18 indicates that Title 18, United States Code, Section 4241
19 contained mandatory language requiring the Court to hold a
10:10AM 20 hearing if it has determined that there's enough doubt
21 regarding the defendant's competency that it ordered a
22 competency examination. The statute uses the word "shall" in
23 reference to holding a hearing on a motion to determine
24 competency.

25 THE COURT: So I should set it for a hearing then to

1 make a final determination.

2 MR. WORTMANN: Clearly, if we're going to have that
3 hearing, then I believe I should be provided with not just the
4 report from Dr. Tillbrook but also any information that was
5 provided to the Court earlier with respect to the other
6 psychiatrists.

7 Now, you know, it could be that the hearing is nothing
8 more than the defendant standing up and saying that they agree
9 with the conclusions, that they're not pressing for the
10:10AM 10 competency hearing, to hear testimony from Dr. Tillbrook to the
11 extent that you have any additional questions that you want to
12 ask, but I do think that having gone the step of ordering the
13 examination, I think the statute, and I'll go back and read the
14 statute, but I thought I should at least tell you what my
15 preliminary views were.

16 THE COURT: Yes.

17 MR. WORTMANN: That we have to have some kind of
18 hearing. I think there's a lot of discretion that you have as
19 to what the scope and the content of the hearing is, but at a
10:11AM 20 minimum, your Honor, I think I'm entitled to see
21 Dr. Tillbrook's report and the earlier transcript since that
22 bears directly on what brought us here in the first place.

23 I think the other thing that we should do, and
24 Dr. Tillbrook should be asked to provide to the Court a copy of
25 Mr. Belin's DYS records since those could also be relevant, and

1 as you'll recall, when I requested the order, the order was
2 that those documents simply went out to Dr. Tillbrook in the
3 first instance.

4 THE COURT: Right. The report references DYS records,
5 so I assume he had them.

6 MR. WORTMANN: I think he should be requested to
7 provide those to the Court so at least your Honor could make a
8 determination as to whether or not it's appropriate to
9 disseminate those to the parties.

10:12AM 10 THE COURT: I express no opinion at this point about
11 to what extent any of this should be shown to the government.
12 Mr. Wortmann may well be correct, I simply want to proceed
13 cautiously.

14 MR. WORTMANN: I understand.

15 THE COURT: And I want the defense to have an
16 opportunity to weigh in here, so why don't we do this. Why
17 don't I set a hearing date for the hearing under 4241(b), and
18 we can work backwards from there. I would suggest maybe the
19 week of October 6th, which is a couple weeks away.

10:12AM 20 MR. WORTMANN: Your Honor, I think that's a little bit
21 close.

22 THE COURT: Okay.

23 MR. WORTMANN: Again, not having seen the report yet,
24 not having decided that -- maybe if I can make a suggestion on
25 it, your Honor, that we reconvene on October 6th, by which time

1 hopefully I will have gotten the report, and we can hear from
2 Mr. Garrity what his wishes are and how he wishes to proceed
3 and your Honor can tell us how you think we need to proceed so
4 that I can get a sense of what you anticipate out of the
5 hearing because if the, you know, the preparation for the
6 hearing might range from, you know, a careful study of the
7 report and the DYS records to putting together a large number
8 of excerpts from the jail tapes, which I provided to
9 Dr. Tillbrook, and all that is timely, and it doesn't sound
10:13AM 10 like this would be necessary here given what you read of
11 getting an independent examination, which I don't think is
12 necessary, but, again, I'd want to read it.

13 THE COURT: Why don't we do this instead. I have in
14 the calendar that we were supposed to convene on Wednesday,
15 October 1st at 3:00. Why don't I make that a status
16 conference. Why don't I direct both the defense and the
17 government if they want to file anything in terms of this
18 report or how the hearing ought to proceed or whatever by
19 September 26th, which is a week from tomorrow, if any, legal
10:14AM 20 analysis would move the ball forward, and then let's see where
21 we are on October 1st.

22 MR. GARRITY: Your Honor, the only issue I have with
23 October 1st is I just found out yesterday that I'm scheduled to
24 pick a jury on September 29th and start a jury trial on
25 September 30th.

1 THE COURT: Okay.

2 MR. GARRITY: That trial may end at the end of the
3 30th, but it may carry over onto the 1st.

4 THE COURT: How about we move it to October 2nd then
5 at 10 a.m.? That would simply be a status. I want to take it
6 a step at a time. The first question is disclosure of the
7 report, and I guess intertwined with that is the defense view
8 of what I do next, what kind of a hearing I need to have.

9 MR. WORTMANN: Your Honor, I'd much rather sort of
10:15AM 10 know what the defense thinks before I provide you with anything
11 because we may be in agreement, and it may save you getting a
12 lot of paper and saving you a lot of work.

13 THE COURT: Well, all right. Then first off, does
14 October 2nd at 10:00 work for both counsel?

15 MR. WORTMANN: It does, your Honor, thank you.

16 MR. GARRITY: It does your Honor.

17 THE COURT: All right. Why don't I leave it this way.
18 Why don't I'll give the defense a September 26th deadline for
19 reporting to the Court as to how I should proceed in terms of
10:15AM 20 disclosing the report to the government.

21 MR. WORTMANN: And if I can just suggest, and it's
22 proposed -- its ideas regarding what, if any, kind of
23 competency hearing should be held since he's had the report for
24 awhile.

25 THE COURT: All right.

1 MR. GARRITY: Okay.

6 MR. WORTMANN: Sure. Obviously, part of that will
7 depend when I get the report.

10:16AM 10 Again, I'm trying to feel my way forward a step at a time.

11 September 26th is the timeline for the defense to indicate
12 their view on circulation of the report to the government
13 either circulated in its entirety under seal, redacting part of
14 it, providing none of it and defense's at least preliminary
15 view, I don't know if I can ask you to do more than that on
16 what kind of hearing we ought to have in light of the report
17 under 4241(b).

18 MR. GARRITY: Okay.

22 MR. WORTMANN: That's fine.

1 expedition here given the timing of all of this.

2 MR. WORTMANN: Your Honor, if we were going to set a
3 trial date because Mr. Garrity has just gotten the case, maybe
4 to be on the safe side we should ask Mr. Garrity what would be
5 a good time for a trial date so we could at least get it on
6 your calendar.

7 THE COURT: The only wrinkle there is the -- I'm
8 meeting with counsel tomorrow in United States vs. Gorski,
9 which was supposed to start September 29th. I already put it
10:18AM 10 off until October 6th, and it's going to slide possibly into
11 December, so my schedule is a little up in the air, but putting
12 that aside, I would have time in November or December to try, I
13 think this is a three- or four-day trial.

14 MR. WORTMANN: Yes, three- or four-day trial.

15 MR. GARRITY: I know Mr. King is somewhat anxious to
16 get it resolved, but I think I would need time to get up to
17 speed on it. Would early December work for the Court?

18 THE COURT: It should work. Why don't I do this,
19 rather than make that decision now, as I indicated, I'm going
10:18AM 20 to see counsel in the Gorski case. I want to try to leave as
21 much of December open in case I need to move that trial to
22 December, so why don't we hold off on that, and we'll come up
23 with a date that works, and I certainly understand everyone's
24 desire, including my own, to have this resolved one way or the
25 other.

1 MR. GARRITY: Okay.

2 THE COURT: Does all that work as a game plan?

3 MR. GARRITY: I think it does, Judge, yes.

4 THE COURT: Okay. Where are we on the exclusion of
5 time?

6 MR. WORTMANN: I know your Honor issued the order at
7 the last time through today, so I guess it would be today
8 through October 2nd at 10 a.m.

9 THE COURT: All right. I would exclude the time. Is
10:19AM 10 there any objection to that, Mr. Garrity, before I go any
11 further?

12 MR. GARRITY: No, your Honor. I think based on my
13 last conversation with Mr. King, he was in agreement excluding
14 the time until this issue was resolved.

15 THE COURT: I will exclude the time from today to
16 October 2nd in the interests of justice both to address
17 whatever mental health issues we may have, including what kind
18 of a hearing to hold and whether the report should be disclosed
19 to the government, and also to permit Mr. Garrity pretrial
10:20AM 20 preparation in the event we do go to trial. We may also be
21 under the prong of the statute concerning mental health
22 evaluation, so I will exclude the time on that basis as well.

23 I find that the ends of justice served by taking that
24 action outweigh the interests of the parties and the public in
25 a speedy trial, and I'll enter a written order to that effect.

1 Okay. Anything else?

2 MR. WORTMANN: Nothing from the government, thank you,
3 your Honor.

4 MR. GARRITY: No, your Honor.

5 THE COURT: Thank you.

6 THE CLERK: All rise.

7 (Whereupon, the hearing was adjourned at 10:21 a.m.)

8

9 C E R T I F I C A T E

10

11 UNITED STATES DISTRICT COURT)

12 DISTRICT OF MASSACHUSETTS) ss.

13 CITY OF BOSTON)

14

15 I do hereby certify that the foregoing transcript,
16 Pages 1 through 13 inclusive, was recorded by me
17 stenographically at the time and place aforesaid in Criminal
18 Action No. 13-10048-FDS, UNITED STATES OF AMERICA vs.
19 KING BELIN and thereafter by me reduced to typewriting and is a
20 true and accurate record of the proceedings.

21 Dated this 29th day of December, 2015.

22 s/s Valerie A. O'Hara

23

24 _____
25 VALERIE A. O'HARA

25 OFFICIAL COURT REPORTER